

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 4:05CR3091
)
v.)
)
THOMAS E. MILLER,) **MEMORANDUM AND ORDER**
)
Defendant.)

The defendant has been charged with 23 felony counts of mail fraud, wire fraud, money laundering and criminal forfeiture. He has not been convicted. A hearing was held on May 8, 2009 to consider the defendant's mental status. At that time, I heard by telephone from counsel for the parties, Mr. Miller and Adeirdre Stribling, Ph.D., staff psychologist, Mental Health Department, Federal Medical Center, Butner, North Carolina.¹ After considering their views, I determined that Mr. Miller remains incompetent. In addition, I further determined that it is unlikely that the defendant's competency will be restored. Finally, I determined that it was necessary to conduct a further evaluation of Mr. Miller regarding the question of dangerousness as contemplated by the provisions of 18 U.S.C. § 4241(d) and 18 U.S.C. § 4246(a)&(b) and related statutes. Therefore,

IT IS ORDERED:

1. By the preponderance of the evidence, the court finds and orders that the defendant is presently suffering from a mental disease or defect and that it is not probable that the defendant's competency will be restored. The defendant is therefore committed to the custody of the Attorney General

¹That hearing also involved the case numbered 4:05CR3039. A separate memorandum and order will be entered in that matter.

for the purpose of determining whether the defendant's release would create a substantial risk of bodily injury to another person or serious damage to the property of another. The defendant shall be examined and a report shall be submitted to the undersigned within the time provided by the governing statutes and such additional reasonable periods as the undersigned may authorize.

2. The defendant is committed to the custody of the Bureau of Prison for the purpose of completing the examination and report ordered above. To facilitate the resolution of another case involving the defendant (4:05CR3039) and for other reasons, Mr. Miller shall be kept at the Federal Medical Center at Butner, North Carolina until further order of this court.
3. My judicial assistant shall arrange a telephone status conference with counsel of record and Dr. Stribling in approximately six months.
4. Copies of this memorandum and order shall be provided to counsel of record, to Dr. Stribling at the Medical Center, to the United States Marshals Service for delivery to the Bureau of Prisons, to Magistrate Judge Piester and to the United States Probation office for the District of Nebraska.

DATED this 8th day of May, 2009.

BY THE COURT:

s/Richard G. Kopf
United States District Judge